

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

NAKIESHA JONES,

Plaintiff,

v.

ORDER
03-CV-920

J.C. PENNEY CORP., et al.,

Defendants.

This case was referred to Magistrate Judge Leslie G. Foschio, pursuant to 28 U.S.C. § 636(b)(1), on December 19, 2003. On March 3, 2005, plaintiff filed a motion for motion for a temporary restraining order, prohibiting the defendants and their counsel from communicating *ex parte* with the Court. (Docket No. 66). On May 31, 2005, Magistrate Judge Foschio filed a Report and Recommendation, recommending that plaintiff's motion for a temporary restraining order be dismissed *sua sponte* and that the Court issue an order directing plaintiff's counsel, Richard Baumgarten, Esq., to show cause why he should not be found in violation of 28 U.S.C. § 1927 and sanctioned accordingly. (Docket No. 80).

Plaintiff filed objections to the Report and Recommendation on July 25, 2005. (Docket No. 103). Defendant Scott Piel filed a response thereto on August 10, 2005. (Docket No. 119).

Pursuant to 28 U.S.C. § 636(b)(1), this Court must make a de novo determination of those portions of the Report and Recommendation to which objections have been made. Upon a de novo review of the Report and Recommendation, and after reviewing the submissions of the parties, the Court adopts the proposed findings of the Report and Recommendation.

Accordingly, for the reasons set forth in Magistrate Judge Foschio's Report and Recommendation, plaintiff's motion for a temporary restraining order is dismissed *sua sponte* and Mr. Baumgarten is ordered to show cause, in writing, on or before April 28, 2006, why he should not be found in violation of 28 U.S.C. § 1927 and sanctioned accordingly. Defendants shall file a response thereto on or before May 19, 2006.

IT IS SO ORDERED.

/s/ Richard J. Arcara

HONORABLE RICHARD J. ARCARA
CHIEF JUDGE
UNITED STATES DISTRICT COURT

DATED: March 31, 2006